

Application Serial No. 09/855,480
Amendment dated April 2, 2003
Reply to Office action of October 2, 2002

REMARKS/ARGUMENTS

The Examiner's Office action mailed October 2, 2002 has been reviewed. Claims 1 through 29 are pending in this application, of which claims 1, 12, 20 and 24 are independent claims. Claims 1 and 8 have been amended to more fully claim the invention to which the Applicant is entitled and to correct a typographical error. Claims 2 through 11 and 13 through 29 are dependent claims, none of which have been amended. Claims 20 through 29 have been withdrawn from consideration.

A petition for extension of time of three months is submitted simultaneously herewith as part of the Amendment Transmittal accompanying this Amendment. Thereby, the time to respond to the Office action has been extended until April 2, 2002. Accordingly, this Amendment is timely filed.

Restriction Requirement

In reply to the restriction requirement set forth in the Office Action mailed October 10, 2002, the provisional election to Group I, claims 1-19, made by Melanie L. Brown during a telephone conversation with the Examiner on September 23, 2002, is affirmed.

Objections to the Drawings

Amendments to the drawings have been made in accordance with the recommendations of the Examiner. Three Replacement Sheets are attached hereto.

Section 112 Rejections

Claims 1 through 19 stand rejected under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The Examiner objected to the word "increased" as unclear. Claim 1 has been amended to more fully claim the invention to which the Applicant is entitled, and claim 1, as amended does not contain the word "increased."

The Examiner objected to the use of the word "beneficiated" as unclear in its meaning. The word "beneficiated" has a meaning in the relevant art, as demonstrated by the use of the term in U.S. Patent No. 5,275,733 at column 9, line 68 through column 10, lines 1 through 2.

It respectfully is requested that the indefiniteness rejections of claim 1 and all dependent claims be withdrawn.

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Section 102(b) Rejection

Claim 1 stands rejected under 35 USC § 102(b) as being anticipated by Burnham (U.S. Patent No. 5,275,733).

A claim is anticipated only if each and every element as set forth in the claim is found, whether expressly or inherently described, in a single prior art reference. *Verdegall Bros v. Union Oil Co. of California*, 814 F.2d 628, 631 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the...claim. *Richardson v Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)

It is submitted that claim 1 as amended patentably distinguishes over Burnham. Burnham fails to teach the problem and the source of the problem identified in the instant application. Claim 1 as amended, is directed to a beneficiated sludge solids composition characterized by its ability to reduce ammonia emissions. The comprises digested municipal sewage sludge containing carbonate or carbon dioxide, ammonium sulfate, mineral acid, and phosphate salt. The acid causes decomposition of the carbonate or carbon dioxide so that ammonia emissions are minimized. Support for this amendment is found at page 13, lines 10 through 23. It is well established that the discovery of the source of a problem may result in a patentable invention.

Burnham fails to teach that the ammonia evolution in previous attempts to incorporate ammonium sulfate into sewage sludge resulted from formation and decomposition of ammonium carbonate. One aspect of the invention lies in its discovery that the acidic composition of the invention causes decomposition of carbonate early in the drying operation and that this decomposition prevents or minimizes ammonium carbonate evolution

Applicant submits that claim 1 as amended is patentable and respectfully requests withdrawal of the 102(b) rejection of claim 1 and claims 2 through 19 dependent therefrom.

Section 103(a) Rejections

Claims 1 stands rejected under 35 USC § 103(a) as being unpatentable over Burnham, and claims 1 through 19 stand rejected under 35 USC § 103(a) as being unpatentable over Burnham in view of Moore (U.S. 4,519,831), EP 143 392, and/or JP 58032638. The arguments above with respect to the section 102(b) rejection are incorporated herein.

To establish *prima facie* obviousness of a claimed invention, all claim limitations must be taught, or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). All the words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494,496 (CCPA 1970). Applicants respectfully submit that the Examiner has

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failed to make a *prima facie* case of obviousness with respect to this combination of references. There must be a basis in the art for combining or modifying the references. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination.

There is no suggestion or teaching to combine the Burnham, Moore, EP or JP references in the various combinations proposed in the Office action in order to produce the invention of claim 1. None of the Moore, EP or JP references teach or suggest the problem and its source, namely, that the ammonia evolution in previous attempts to incorporate ammonium sulfate into sewage sludge resulted from formation and decomposition of ammonium carbonate.

A *prima facie* case of obviousness with respect to claim 1 and, consequently, all dependent claims, has not been made. Accordingly, reconsideration of the foregoing rejection respectfully is requested.

In view of the foregoing amendments and remarks, it is submitted that the claims now of record, i.e., claims 1-19, as amended, are allowable and should be passed to issue. Applicants respectfully request the same. The Examiner is invited to call the undersigned attorney if there are any unresolved issues to discuss same.

This is intended to be a complete response to the Office action mailed October 2, 2002.

Respectfully submitted,

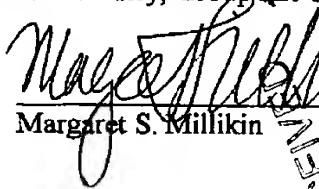
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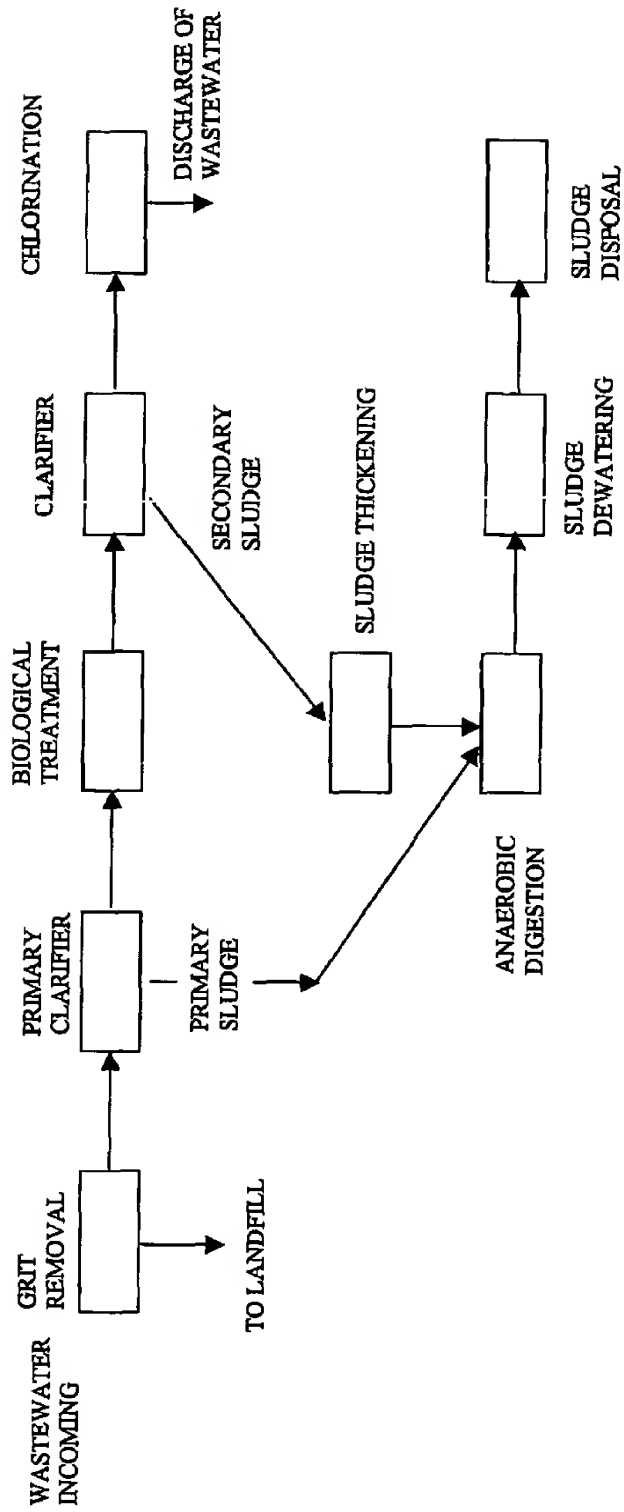
I hereby certify that this correspondence is being deposited with the United States Patent & Trademark Office via facsimile to Examiner Chester R. Barry, Group Art Unit 1724, at RightFax No. 703-872-9311 on April 2, 2003.


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FIGURE 1A

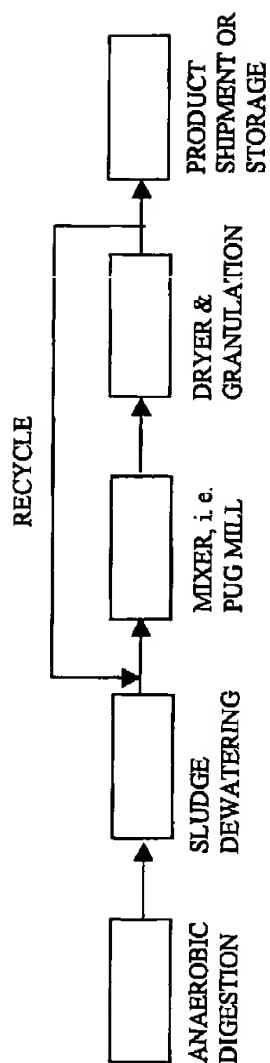
Prior Art



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FIGURE 1B

Prior Art



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FIGURE 2